

HARD COPY

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

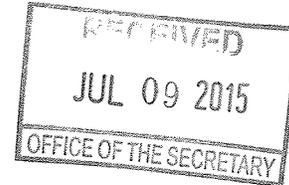
**ADMINISTRATIVE PROCEEDING
File No. 3-15519**

In the Matter of

Timbervest, LLC,

**Joel Barth Shapiro,
Walter William Anthony Boden, III,
Donald David Zell, Jr.,
and Gordon Jones II,**

Respondents.



**RESPONDENTS' REPLY IN SUPPORT OF MOTION TO COMPEL
DIVISION TO COMPLY WITH COMMISSION ORDER**

On May 27, 2015, the Commission ordered the Division to file “an affidavit from an appropriate Commission staff member, with supporting exhibits if appropriate, setting forth the manner in which ALJ Cameron Elliot and Chief ALJ Brenda Murray were hired, including the method of selection and appointment.”

On June 4, 2015, the Division filed an affidavit signed by Jayne L. Seidman. This affidavit states in pertinent part that “ALJ Elliot was not hired through a process involving the approval of the individual members of the Commission.” As Respondents explained in their Motion to Compel Division to Comply with Commission Order (“Motion”), Ms. Seidman’s affidavit failed to set forth “the manner in which ALJ Cameron Elliot and Chief ALJ Brenda Murray were hired.” It also failed to describe their “method of selection and appointment.”

In its July 2, 2015 response to the Motion, the Division continues to ignore the clear directive of the Commission's May 27 Order and acts as though it is responding to a request for documents by asserting why no further information about ALJ Elliot's "method of selection and appointment" is necessary or relevant. Instead, it offers only to "endeavor to provide any such information that the Commission may deem relevant to resolving the case at that time." Apparently, from the Division's perspective, Commission orders are merely suggestions for its consideration.

Not only has the Division flouted the Commission's May 27 Order by willfully choosing not to file a compliant affidavit, but in a separate filing¹ it has completely disregarded the Commission's Order for additional briefing on the Appointments Clause. Instead of addressing as the Commission requested briefing on what would be "the appropriate remedy if such a violation [were] found", the Division reargued its position that SEC ALJs are not inferior officers. The Commission told the parties to assume in answering the Commission's additional question that they were "inferior officers." (May 27 Order, at 2). The Division concludes by asking the Commission for an opportunity to brief this issue should the Commission find that SEC ALJs are inferior officers. The Division had its opportunity to respond to this issue, and should be denied any further opportunity to supply additional briefing.

The Division should be directed to provide an affidavit setting forth the manner in which ALJ Elliot was hired, including the method of selection and appointment.

The Division's efforts to avoid full compliance with the Commission's May 27 Order are now particularly suspect in light of the new information concerning Ms. Seidman's direct involvement in hiring ALJ Elliot. The Division provides no explanation whatsoever for how it could have obtained an affidavit from Ms. Seidman for submission in response to the May 27

¹ See The Division of Enforcement's Memorandum of Law in Response to the Commission's May 27, 2015 Order Requesting Supplemental Briefing filed July 1, 2015.

Order, yet ended up filing its June 4 Notice providing materially false information to the Commission about ALJ Elliot's hiring.

Ordinarily, one would presume the Division told Ms. Seidman why they were asking her to sign the affidavit she signed and that they asked her what she knew about his "method of selection and appointment." But had they done so, one would hope they never would have prepared and filed the materially false June 4 Notice. Respondents respectfully request that the Commission direct the Division to explain these seemingly inexplicable events.

In addition to its continuing refusal to provide a fully compliant affidavit with respect to ALJ Elliot's hiring, the Division's response says nothing about its complete failure to address the "method of selection and appointment" of Chief ALJ Murray. The Division should be directed to provide an affidavit setting forth the manner in which Chief ALJ Murray was hired, including the method of selection and appointment.

For the reasons stated here and in Respondents' Motion, the Respondents respectfully request that the Commission direct the Division to comply fully with its May 27 Order.

Respectfully submitted, this 8th day of July, 2015.


Stephen D. Council


Nancy R. Grunberg
George Kostolampros

ROGERS & HARDIN LLP
2700 International Tower, Peachtree Center
229 Peachtree Street, N.E.
Atlanta, GA 30303
Telephone: 404-522-4700
Facsimile: 404-525-2224
scouncil@rh-law.com

DENTONS US LLP
1900 K Street, N.W.
Washington, D.C. 20006
Telephone: 202-496-7524
Facsimile: 202-496-7756
nancy.grunberg@dentons.com
george.kostolampros@dentons.com

*Counsel for Respondents Timbervest, LLC,
Walter William Boden III, Gordon Jones II,
Joel Barth Shapiro, and Donald David Zell, Jr.*

*Counsel for Respondents Timbervest, LLC,
Walter William Boden III, Gordon Jones II,
Joel Barth Shapiro, and Donald David Zell, Jr.*

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15519

In the Matter of
Timbervest, LLC,
Joel Barth Shapiro,
Walter William Anthony Boden, III,
Donald David Zell, Jr.,
and Gordon Jones II,
Respondents.

Certificate of Service

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing REPLY IN SUPPORT OF MOTION TO COMPEL DIVISION TO COMPLY WITH COMMISSION ORDER upon counsel of record in this matter by causing same to be delivered to the following as indicated below.

Via Facsimile to (202) 772-9324
and Overnight Delivery

Brent J. Fields, Secretary
Office of Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 2557
Washington, DC 20549
(original and three copies)

Via Email and Facsimile to (404) 842-7679

M. Graham Loomis, Esq.
Robert K. Gordon, Esq.
Anthony J. Winter, Esq.
Attorneys for Division of Enforcement
U.S. Securities and Exchange Commission
950 East Paces Ferry Road, NE
Atlanta, Georgia 30236-1382
LoomisM@sec.gov
GordonR@sec.gov
WinterA@sec.gov

This 8th day of July, 2015.



Stephen D. Councill

HARD COPY

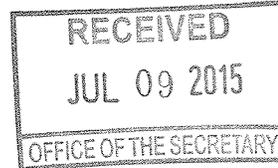
ROGERS & HARDIN

July 8, 2015

Stephen D. Council
Direct: 404.420.4658
Direct Fax: 404.230.0935
Email: scouncil@rh-law.com

VIA FACSIMILE TO (202) 772-9324
AND OVERNIGHT DELIVERY

Brent J. Fields, Secretary
Office of Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 2557
Washington, DC 20549



Re: *In the Matter of Timbervest, LLC, et al.*
Administrative Proceeding File No. 3-15519

To Whom It May Concern:

On behalf of Respondents, I enclose for filing before the Commission the original and three (3) copies of Respondents' Reply in Support of Motion to Compel Division to Comply with Commission Order in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Stephen D. Council".

Stephen D. Council

SDC/cm
Enclosure (as stated)

cc: M. Graham Loomis, Esq. (via Facsimile and United States Mail)
Robert K. Gordon, Esq. (via Facsimile and United States Mail)
Anthony J. Winter, Esq. (via Facsimile and United States Mail)